IN THE HIGH COURT OF JUDICIATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO.717 OF 2002
AND
INCOME TAX APPEAL NO.1090 OF 2004
AND
INCOME TAX APPEAL NO.1091 OF 2004
AND
INCOME TAX APPEAL NO.213 OF 2005

The Commissioner of Income-tax,
City IX, Mumbai .. Appellant.
V/s.
M/s.Lokhandwala Const.Ind.
Pvt.Ltd., Mummbai .. Respondent.

Mr.Ashok Kotangale for the appellant.

Mr.K. Shivram with Mr.A.R. Singh for the respondent.

AND

INCOME TAX APPEAL NO.117 OF 2003

Lokhandwala Const. Ind.Ltd. .. Appellant.
V/s.
The Asstt. Commissioner of
Income-tax, Range 9(2) & Anr. .. Respondents.

Mr.K. Shivram with Mr.Ajay Singh i/b. M/s.Rajesh Shah & Co. for the appellant.

Mr.Ashok Kotangale for the respondents.

CORAM : V.C. DAGA &
J.P. DEVADHAR, JJ.

DATED : 24TH OCTOBER, 2005.

P.C. :

1. Heard rival parties.

2. So far as first question is concerned, the

Tribunal has relied upon its decision in the assessee's case for the assessment years 1987-88, 1988-89, 1989-90 and 1995-96 wherein the issue has been decided against the Revenue. One of such orders for the A.Y. 1987-88 was the subject matter of challenge before this Court. The judgment of the Tribunal has been upheld by this Court reported in 2003 (260) I.T.R. 579 (Bombay) [C.I.T. V/s. Lokhandwala Construction Ind. Limited] to which one of us (Devadhar, J.) is a party. In that view of the matter, the first question cannot be said to be a substantial question of law warranting adjudication.

3. So far as second question is concerned, the same is based on finding of fact recorded by the Tribunal that the assessee has been consistently following the project completion method and the same has been accepted by the Revenue.

4. In the above view of the matter, no substantial questions of law arise in these appeals. The appeals are, therefore, dismissed in limine with no order as to costs.

5. In view of this order, the learned counsel appearing for the assessee-appellant who has filed cross-appeal on behalf of the assessee seeks

permission to withdraw assessee's appeal being the Income Tax Appeal No.117 of 2003. The same is, accordingly, dismissed as withdrawn with no order as to costs. The appellant-assessee shall be at liberty to apply for refund of Court fee as may be permissible in law.

(V.C. DAGA, J.)

(J.P. DEVADHAR, J.)